Seismic Safety Commission could lose funding

Will Evans, California Watch, 4-6-12

California's Seismic Safety Commission could lose funding this year due to a 2010 ballot initiative that made it harder to impose government fees on businesses and individuals.

The state Legislative Analyst's Office determined last week that the governor's proposed method of funding the safety commission is unconstitutional. The analyst recommended that the Legislature reject the funding proposal, which would leave the small agency without a source of money starting July 1. The cash crunch is the latest fallout from Proposition 26, which was bankrolled in 2010 by oil, tobacco and alcohol companies and the California Chamber of Commerce.

The analyst's report caught the commission by surprise. Gov. Jerry Brown's Finance Department is now looking for an alternative funding source, said commission Executive Director Richard McCarthy.

"I think the commission is acknowledged as doing enough good for a small enough amount of money that we cooperatively will find a way to fund it," said commission Chairman Mike Gardner, a Riverside city councilman.

The Seismic Safety Commission, created in 1975, provides advice and coordinates state policy on earthquake safety with a budget of $1.3 million. It is currently participating in a review of seismic risks involving San Francisco's water delivery system and, separately, theDiablo Canyon nuclear plant near San Luis Obispo, Gardner said.

For the last decade, the commission has been funded by a fee on insurance companies. That fee was set to expire in July, but Brown's proposal would extend it indefinitely.

The problem, according to the legislative analyst, is that the fee is considered a tax under Prop. 26, which requires approval by two-thirds of the Legislature for fees that previously needed only majority support. In 2010, environmental groups and unions fought the ballot measure, which was funded with millions of dollars from Chevron, Philip Morris andbusiness associations. Voters approved it by 52.5 percent.

"Rightly or wrongly, the majority of voters in the state took the position that government was collecting and spending more money than they wanted them to, and they wanted them to spend what they had more wisely," Gardner said.

But even with a two-thirds majority, the Legislature can't pass an additional tax on insurance companies to fund the commission, the analyst found. The state constitution provides for a special insurance tax that replaces any other taxes on insurance companies.

"They would have to find an alternative funding source or in the meantime use reserves or whatever they have to provide their operating costs,"saidMark Whitaker, senior fiscal and policy analyst with the Legislative Analyst's Office.

Gardner said the commission only has enough money in reserve to wind down the agency.

The analyst's report noted that the state's general fund could pay for the commission but said: "In a year when the state faces difficult choices in balancing the General Fund budget, the Legislaturethen wouldneed to evaluate funding for the commission in relation to other state priorities such as health, education, social services, corrections, and other programs."

That sentiment is echoed by the insurance industry, which has paid for the commission only "grudgingly," said Nicole Ganley, spokeswoman for the Association of California Insurance Companies. The insurance industry fee, Ganley noted, filters down to extra costs for consumers.

"If the state thinks it's important, then the state should fund it from the general fund," she said. "The state's going to have to look at their priorities."